



U.S. Department of Justice

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March 18, 2022

Via ECF

Honorable Eduardo C. Robreno
Judge, United States District Court
for the Eastern District of Pennsylvania
15614 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106

Re: DaSilva v. Temple Univ. Hosp., et al., Civ. No. 20-1395-ER (E.D. Pa.)

Dear Judge Robreno:

I write to update Your Honor about the status of the United States' Motion to Compel (ECF 46). On February 23, 2022, the United States moved to compel the plaintiffs to (1) respond fully to the United States' interrogatories and requests for document production, as required by the Federal Rules of Civil Procedure; (2) produce Mrs. and Mr. DaSilva for depositions on March 9 and 15, 2022, respectively; and (3) sign authorizations for the release of relevant records, to be subpoenaed by third-parties, and provide identifying information for those third-parties where necessary.

The plaintiffs filed an Opposition brief on March 9, 2022 (ECF 48). There, they argue that the Court should deny the request to compel interrogatories and requests for document production because they sent the United States the requested discovery on March 1, 2022. They also argue that the Court should deny the request for depositions because they are unavailable on the proposed dates. The plaintiffs further argue the Court should deny the request for signed authorizations because they either provided the requested authorizations, or else the requested authorizations are not reasonably calculated to lead to discoverable information. Finally, the plaintiffs request a scheduling conference with the Court on March 21, 2022, and further request a sixty (60) day extension of the discovery deadlines in this matter.

In preparation for the teleconference scheduled on the Motion for March 21, 2022, the United States respectfully wishes to apprise the Court of the discovery issues that remain to be discussed.

1. The Plaintiffs' Responses to Interrogatories

As the plaintiffs represent, they did respond to the United States' Interrogatories and Requests for Production on March 1, 2022. Their Interrogatory responses are attached as Exhibit 1. The United States sent a letter to plaintiffs' counsel on March 8, 2022 identifying specific deficiencies in their responses to Interrogatory Nos. 6–10, 14, and 15–16. That deficiency letter is attached as Exhibit 2. Plaintiffs' counsel acknowledged receipt of the letter but plaintiffs have not provided any substantive responses.¹ The United States therefore respectfully requests that the Court not deny as moot the United States' Motion to Compel compliant responses to Interrogatory Nos. 6–10, 14, and 15–16. At this time, the United States does not challenge the plaintiffs' responses to the other Interrogatories or the Requests for the Production of Documents.

2. The Signed Authorizations for Third-Party Records

On March 8, 2022, along with its deficiency letter, the United States sent the plaintiffs specific authorizations for the release of minor plaintiff J.D.'s records from: (a) St. Christopher's Hospital for Children; (b) Department of Pediatrics, Center for Children with Special Health Care Needs; and (c) Elwyn Early Intervention. The United States also sent a specific authorization for the release of Andreza Lopez DaSilva's records from Temple University Health System.

On March 9, 2022, plaintiffs' counsel responded that she would forward the authorizations to the plaintiffs for their signatures. The United States has not yet received those signed authorizations. Unless they are provided before the hearing on March 21, 2022, the United States respectfully requests that the Court not deny as moot its Motion to Compel the plaintiffs' signatures on these specific authorizations for third-party records. The United States does not, at this time, contemplate sending any other authorizations for third-party records to the plaintiffs.

3. The Plaintiffs' Depositions

In light of plaintiffs' counsel's unavailability in the month of March, the parties have agreed to exchange availability for depositions in the month of April. On March 10, 2022, the parties agreed to a deposition date for Dr. Clinton Turner on April 6, 2022. That same day, the United States requested plaintiffs' availability for depositions. As of the date of this letter, the plaintiffs have still not provided any dates that they are available to be deposed in this matter. Therefore, while the United States recognizes that the dates identified in the Motion to Compel do not work for plaintiffs' counsel (and have now passed), the United States nevertheless

¹ Due to a typographical error on the part of undersigned counsel, the United States' deficiency letter is inconsistent in that it requests responses by March 19, 2022 at the beginning, and later requests responses by March 17, 2022. The United States recognizes that, because of this inconsistency, responses may still be forthcoming. But the United States wanted to apprise Your Honor of the status of the discovery prior to the hearing scheduled for March 21, 2022.

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respectfully requests that the Court compel the plaintiffs to appear for depositions in this matter during the month of April.

4. The Plaintiffs' Request for an Extension

Finally, the plaintiffs request a sixty (60) day extension of all discovery deadlines. The United States will not oppose this request, so long as the plaintiffs provide availability for depositions in April as soon as possible, and also commit to responding to the other reasonable discovery requests described above.

We look forward to discussing these matters further with Your Honor on March 21, 2022.

Exhibits

Respectfully,

JENNIFER ARBITTIER WILLIAMS
United States Attorney

/s/ Elizabeth L. Coyne
ELIZABETH L. COYNE
Assistant United States Attorney

Cc: all counsel of record via ECF

CERTIFICATE OF SERVICE

I certify that on this date, I filed the foregoing Letter to Judge Robreno and supporting documentation with the Court and served a copy by ECF upon the following:

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Dated: March 18, 2022

/s/ Elizabeth L. Coyne
ELIZABETH L. COYNE
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